THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :16831 OF 2007

DATED:09-08-2007

BETWEEN:
Dr.B.Vittal.

.....
PETITIONER

AND

The Government of Andhra Pradesh,
Home Department,
Rep., by its Principal Secretary,
Secretariat,
Hyderabad & 9 others.

.....RESPONDENTS

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ORDER:

Heard learned counsel appearing for the petitioner as well as the learned Government Pleader for Home appearing for the respondents.

2. Petitioner seeks a writ of certiorari to call for records relating to impugned notice, dated 28-07-2007, on the file of the 4th respondent for the Cr.No.468 of 2007 of Saifabad police station and set aside the same.

3. It is the case of the petitioner that pursuant to a complaint made by the 5th respondent against the petitioner, Cr.No.1/07 was registered under Sections 498A, 417 and
494 IPC of C.I.D. police station, Hyderabad and in that case, petitioner was arrested and released on bail. In that connection, petitioner was also placed under suspension, and investigation is still pending in the said case. Whileso, petitioner filed a private complaint, making certain allegations against the respondents 5 to 10 herein that they have committed a cognizable offence punishable under Sections 420, 500, 383, 211 and 506 r/w 120-B IPC before the
I Additional Chief Metropolitan Magistrate, Nampally, Hyderabad, and the said complaint was referred to the police station, Saifabad

to register a crime and investigate the same. Pursuant to the same, Cr.No.468 of 2007 was registered against them and a final report is sought to be filed referring the charges as 'false' by issuing a notice to the petitioner. Petitioner questions the said notice issued in Cr.No.468 of 2007 under Sections 420, 500, 383, 211, 506 r/w 120-B IPC dated 28-07-2007, as illegal, arbitrary and set aside the same and direct the C.B.I. to investigate into the allegations made in the said crime.

4. Whenever any report is received by the concerned learned Magistrate under Section 159 Cr.P.C. he got the power either to direct an investigation, or, if he thinks fit, he can proceed to enquire into the case or depute any Magistrate subordinate to him to proceed, to hold the preliminary enquiry into, or otherwise to dispose of the case in the manner provided in the Code of Criminal Procedure. Therefore, I am of the opinion that the petitioner has got a remedy of opposing the report before the concerned Magistrate apart from filing another private complaint under Section 190 r/w 200 Cr.P.C. if the learned Magistrate fails to exercise the power under Section 159 Cr.P.C.

4. In view of the aforesaid remedy available to the petitioner, I do not see any grounds to entertain the present Writ Petition.

5. Accordingly, Writ Petition is dismissed with a liberty to take appropriate action in accordance with law. No order as to costs.

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V.ESWARAIAH,J

09th August, 2007.

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